

REMARKS

Claims 1, 4-11 are pending in the application; claims 2 and 3 have been canceled.

Claim Objections

The deficiency in claim 10 has been corrected ("of" has been changed to "off").

Rejection under 35 U.S.C. 102

Claim 1 stands rejected under 35 U.S.C. 102(b) as being anticipated by *Moriya et al.* (US 5,924,395).

Claim 1 stands rejected under 35 U.S.C. 102(e) as being anticipated by *Mikame et al.* (US 6,386,164).

Claim 1 has been amended by including the features of claims 2 and 3 so that the above rejections no longer apply.

Rejection under 35 U.S.C. 103

Claims 2-5, 7-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Moriya et al.* (US 5,924,395) or *Mikame et al.* (US 6,386,164) in view of *Kahrs et al.* (US 5,509,383).

Claim 1 has been amended to include the features of claims 2 and 3 and now defines an actuating device that has at least one auxiliary storage storing an auxiliary pressure medium volume, wherein the positive control of the motor camshaft is provided by additionally supplying the auxiliary pressure medium volume to the at least one piston for adjusting the at least one piston so as to cause the motor vehicle engine camshaft to move into said start position.

Moriya et al. (US 5,924,395) or *Mikame et al.* (US 6,386,164) are cited by the examiner to show camshaft adjusters having solenoid valves and rotary slide valves for securing the camshaft in a position to facilitate starting of the engine.

The examiner refers to *Kahrs et al.* as showing an intermediate reservoir 307 and an additional pump 309 for adjusting a camshaft. The examiner states that it is well known to use pressurized tanks or sources of fluid in connection with camshaft adjusters and that it would have been an obvious choice to configure the camshaft adjuster to return fluids to the intermediate reservoir 307. The examiner also states that there is nothing in the record that establishes that the application of such a pressurized auxiliary storage or return of the medium to the auxiliary storage represents a novel or unexpected result.

Kahrs et al. discloses that the auxiliary (intermediate) reservoir 307 "provides suction pressure control of the hydraulic pump 309, so that the delivery rate of the hydraulic pump 309 can be limited to an adequate maximum value in a simple way and with minimum loss, regardless of strong fluctuations in the rate of revolutions of the pump drive." (see col. 9, lines 1-6). The reservoir 307 provides a means for limiting the delivery rate of the hydraulic pump so that the fluctuations of the pump drive are compensated.

According to the present invention, the intermediate storage 7 provides an auxiliary hydraulic medium volume and ensures that the camshaft 31 is quickly rotated into the required start position by means of the auxiliary volume of the hydraulic medium that is additionally supplied to the pressure line 24 (see paragraph 0031, last four lines; see paragraph 0039, six four lines; see paragraph 0043, last two lines; see paragraph 0044, lines 2-6; see paragraph 0048, lines 5-9; see paragraph 0050, last two lines).

According to the present invention, the auxiliary reservoir provides an auxiliary volume of hydraulic medium for moving the piston of the slide valve and thus the camshaft connected thereto into the proper starting position for starting the engine. This is not suggested in *Kahrs et al.* *Kahrs et al.* only teaches suction pressure control of the pump 309 by limiting the delivery rate of the hydraulic pump to an adequate maximum value for compensating the fluctuations of the pump drive.

Claim 1 as amended is therefore not obvious in view of the combined disclosure of the cited references and should be allowable together with 1st dependent claims.

Claims 6 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Moriya et al.* (US 5,924,395) or *Mikame et al.* (US 6,386,164) in view of *Kahrs et al.* (US 5,509,383). Claims 6 and 11 should be allowable as dependent claims of claim 1.

CONCLUSION

In view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call or e-mail from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and

Trademark Office deposit account 50-1199.

Respectfully submitted on March 7, 2006,

Gudrun E. Huckett
Ms. Gudrun E. Huckett, Ph.D.
Patent Agent, Registration No. 35,747
Lönsstr. 53
42289 Wuppertal
GERMANY
Telephone: +49-202-257-0371
Facsimile: +49-202-257-0372
gudrun.draudt@t-online.de

GEH/Encl.: time extension petition (1 sheet)

- 6 -

3/7/06: Amd for Ser. No. 10/709,092 - Inventor(s): Palesch et al. - Filing Date: 4/13/2004